



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,409	11/16/2001	Min Young Park	2080-3-48	3335

35884 7590 06/15/2005

LEE, HONG, DEGERMAN, KANG & SCHMADEKA, P.C.
801 SOUTH FIQUEROA STREET
14TH FLOOR
LOS ANGELES, CA 90017

EXAMINER

GILLIS, BRIAN J

ART UNIT	PAPER NUMBER
----------	--------------

2141

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/991,409

Applicant(s)

PARK, MIN YOUNG

Examiner

Brian Gillis

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Roeck et al (US Patent #6,574,796).

The claimed invention reads on Roeck et al as follows: (Claim 1 discloses) an apparatus for downloading an initialization file for a cable modem comprising: a tuner unit for tuning and outputting a plurality of downstream signals and upstream signals; (Roeck et al shows a cable modem with a tuner (column 11, lines 58-61).); a downstream unit for demodulating the downstream signals from the tuner unit and separating a general data from a MAC management message (Roeck et al shows a receiver chip that demodulates the data (column 12, lines 3-5).); a message processor

Art Unit: 2141

for detecting configuration file name information and MAP information according to the MAC management message input from the downstream unit (Roeck et al shows a receiver chip in conjunction with the central processing unit can process data from downstream (column 12, lines 15-21).); a non-volatile memory for storing the configuration file name information detected by the message processor (Roeck et al shows a CPU with its own memory for storing data (column 12, lines 16-17).); a CPU for controlling the message processor (Roeck et al shows the CPU controls the receiver chip (column 12, lines 9-12).); and an upstream unit for generating/modulating the upstream signal according to the MAP information detected by the message processor (Roeck et al shows a transmitter chip which modulates and prepares the signal for transmission upstream (column 12, lines 30-34, 38-40).

Claims 8, 10, 11, and 13-16 are rejected under 35 U.S.C. 102(e) as being anticipated by DiNatale et al (WIPO Pub # WO 02/48897 A1).

The claimed invention reads on DiNatale et al as follows: (Claim 8 discloses) an initialization file for a cable modem, the initialization file comprising a format of a configuration file, and further comprising: a file name part indicating a configuration file name (DiNatale et al shows a file format which contains the name of the file (page 7, lines 8-11, page 8, lines 26-31, page 9, lines 1-2).); a file version part indicating configuration file version information (DiNatale et al shows a file format which also contains the file version (page 7, lines 8-11, page 8, lines 26-31, page 9, lines 1-2).); and a delimiter part between the configuration file name part and the configuration file

Art Unit: 2141

version part (DiNatale et al shows a file format which has specified lengths for the data which separates the data providing a delimiter in between (Figure 4).).

(Claim 10 discloses) the initialization file of claim 8, wherein the file version part indicates the file version information as one of a time value defined in an RFC868, a time protocol, and a string form of number information (DiNatale et al shows that the value field can range from 1 to 254 bytes and contains the specific value for the configuration parameter (page 6, lines 26-32, page 7, lines 1-3).).

(Claim 11 discloses) a method for downloading an initialization file for a cable modem, the method comprising: registering configuration file name information in a DHCP server (DiNatale et al shows the DHCP server can determine the file name information from the cable modem (page 10, lines 7-10).); receiving the configuration file name information registered in the DHCP server (DiNatale et al shows the DHCP server sends the configuration file information to the cable modem (page 6, lines 8-10).); comparing the received first configuration file name information with previously stored configuration file name information (DiNatale et al shows the file name is read and compared to the file name downloaded in the previous power-up process (page 7, lines 29-31).); downloading the received first configuration file name information if one of the name and the version of the received configuration file name information is more recent file than the previously stored configuration file name information; (DiNatale et al shows that if the version numbers do not match then the latest version of the file is downloaded (page 7, lines 31-32, page 8, line 1 and page 10, lines 9-13).); updating the memory with the downloaded configuration file name information (DiNatale et al

Art Unit: 2141

shows that the cable modem stores the file name so at the next power-up the stored value can be compared, it also downloads the latest version (page 9, lines 16-25).); and registering a cable modem by using the stored configuration file name information (DiNatale et al shows that after the download the file is stored and the modem begins its operational state (page 9, line 32, page 10, line 1-2).).

(Claim 13 discloses) the method of claim 11, wherein comparing the received configuration file name information with the previously stored configuration file name information comprises: comparing a file name of the received configuration file name information with the name of the stored configuration file name information (DiNatale shows that the names are compared (page 7, lines 29-31).); downloading the received configuration file name information if the received configuration file name and the stored configuration file name are different; and comparing the received configuration file version to the stored configuration file version if the received configuration file name is identical to the stored configuration file name (DiNatale et al shows that the file contains major revision numbers, minor revision numbers, and patch revision numbers which are used to compare the stored file with the file name downloaded (page 8, lines 26-31, page 9, lines 1-13).); and downloading the received configuration file name information if the received configuration file version information is more recent than the stored configuration file version (DiNatale et al shows that the values in the files are compared and if necessary the latest version is downloaded and (page 9, lines 16-25).).

(Claim 14 discloses) the method of claim 13, wherein comparing further comprises: performing a registration process of the cable modem by using the stored

Art Unit: 2141

configuration file name information if the received configuration file version is one of older than and the same as the stored configuration file version (DiNatale et al shows that if there is a match between the two files then the cable modem is already using the latest version of the software (page 10, lines 12-13).).

(Claim 15 discloses) the method of claim 11, wherein the format of the configuration file name information comprises: a file name part indicating a configuration file name (DiNatale et al shows a file format which contains the name of the file (page 7, lines 8-11, page 8, lines 26-31, page 9, lines 1-2).); a file version part indicating a configuration file version (DiNatale et al shows a file format which also contains the file version (page 7, lines 8-11, page 8, lines 26-31, page 9, lines 1-2).); and a delimiter part between the file name part and the file version part (DiNatale et al shows a file format with specified lengths for the data which separates the data providing a delimiter in between (Figure 4).).

(Claim 16 discloses) the method of claim 11, wherein the stored configuration file name information is downloaded when initializing the cable modem (DiNatale et al shows that the cable modem stores the file name so at the next power-up this stored value can be used in the comparison process (page 9, lines 16-20).).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roeck et al (US Patent #6,574,796) in view of Welles, II et al (US Patent #6,532,495).

Claim 2 discloses the apparatus of claim 1, wherein the general data of the downstream unit is transmitted to a display unit that can be viewed by a user through an MPEG 2 transport stream interface, and the MAC management message is transmitted to the message processor. Roeck et al teaches of the limitations in claim 1 as recited above (column 11, lines 58-61, column 12, lines 3-5, 9-12, 15-21, 30-34, 38-40). It fails to teach of the data in the downstream unit being transmitted to a display unit and to a message processor. Welles, II et al teaches of a data receiver connected to an input connection and also to a television set so that a data stream input connection is conducted to both the television set and to the data receiver (column 7, lines 36-40).

Roeck et al and Welles, II et al are analogous art because they are both related to data transmission through a cable modem.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the connection in Welles, II et al and adapt it to the device in Roeck et al because the data connection line carries two types and data can be conducted to both a display unit and to the message processor (Welles, column 7, lines 38-40).

Claims 3, 4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roeck et al (US Patent #6,574,796) in view of DiNatale et al (WIPO Pub # WO 02/48897 A1).

Claim 3 discloses the apparatus of claim 1, wherein the message processor stores the detected configuration file name information in the non-volatile memory only

Art Unit: 2141

when the detected configuration file name information is a more recent version than the configuration file name information previously stored in the non-volatile memory. Roeck et al teaches of the limitations in claim 1 as recited above (column 11, lines 58-61, column 12, lines 3-5, 9-12, 15-21, 30-34,38-40). It fails to teach of a process, which stores the information in memory only when the detected information is more recent than the one already stored. DiNatale et al teaches of a process where the information is saved in memory if it is more recent than the previous information (page 7, lines 29-32).

Roeck et al and DiNatale et al are analogous art because they are both related to data transmission through a cable modem.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the process of comparing the information in DiNatale et al with the device taught by Roeck et al because this will ensure that all the capabilities included within the cable modem are utilized during operation (page 10, lines 24-27).

Claim 4 discloses the apparatus of claim 1, wherein the CPU compares the configuration file name information detected by the message processor to the configuration file name information stored in the non-volatile memory and selects the configuration file name information of a later version. Roeck et al teaches of the limitations in claim 1 as recited above (column 11, lines 58-61, column 12, lines 3-5, 9-12, 15-21, 30-34,38-40). It fails to teach of a process where the CPU compares the information detected by the message processor and the information stored in memory and then selects the one with the higher version. DiNatale et al teaches of a process

Art Unit: 2141

where information is read and compared to information downloaded during a previous power up and now stored in the modem. If the information does is not the same then the latest version is saved in the modem (page 7, lines 29-32).

Roeck et al and DiNatale et al are analogous art because they are both related to data transmission through a cable modem.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the process of comparing the information in DiNatale et al with the device taught by Roeck et al because this will ensure that all the capabilities included within the cable modem are utilized during operation (page 10, lines 24-27).

Claim 7 discloses the apparatus of claim 1, wherein the non-volatile memory stores the configuration file name information for initializing the cable modem. Roeck et al teaches of the limitations in claim 1 as recited above (column 11, lines 58-61, column 12, lines 3-5, 9-12, 15-21, 30-34,38-40). It fails to teach of storing the information inside the memory. DiNatale et al teaches of storing the information in the cable modem memory in order to compare it with future versions (page 9, lines 9-12).

Roeck et al and DiNatale et al are analogous art because they are both related to data transmission through a cable modem.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the process of comparing the information in DiNatale et al with the device taught by Roeck et al because doing so would speed up and help in determining whether any changes have been made and therefore it would ensure that all the

capabilities of the cable modem would be utilized during its operation (page 10, lines 24-27).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roeck et al (US Patent #6,574,796) in view of Gatherer et al (US Patent #6,549,584).

Claim 5 discloses the apparatus of claim 1, wherein the message processor parses the format of the detected configuration file name information into a configuration file name part and a configuration file version part with a delimiter part there between. Roeck et al teaches of the limitations in claim 1 as recited above (column 11, lines 58-61, column 12, lines 3-5, 9-12, 15-21, 30-34,38-40). It fails to teach of parsing information into parts with a delimiter in between. Gatherer et al teaches of a parser function which processes the incoming bit stream into groups of bits of specific lengths which separates the data providing a delimiter in between (column 8, lines 66-67, column 9, lines 1-8).

Roeck et al and Gatherer et al are analogous art because they are both related to cable modem internal operations.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the parser function taught by Gatherer et al with the device taught by Roeck et al because Gatherer teaches that the function can reduce errors inherently speeding up the process (column 10, lines 52-56).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roeck et al (US Patent #6,574,796) in view of Gatherer et al (US Patent #6,549,584) as applied to claim 5 above, and further in view of DiNatale et al (WIPO Pub # WO 02/48897 A1).

Claim 6 discloses the apparatus of claim 5, wherein the format of the configuration file name information includes a file name part indicating a configuration file name, a file version part indicating a configuration file version information, and a delimiter part differentiating the file name part and the file version part. Roeck et al as modified by Gatherer et al teaches of an apparatus as described in claims 1 and 5 as recited above. Their combined teaching lacks the format of the configuration file format as recited above. DiNatale et al teaches of a file format which has the file name part with the file version part included. Each field is designated which separates the data providing a delimiter in between. (Figure 4).

Roeck et al as modified by Gatherer et al and DiNatale et al are analogous art because they are both related to cable modem data handling operations.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the file format of DiNatale in the apparatus of Roeck et al as modified by Gatherer et al because DiNatale teaches the file allows the cable system operator to configure all of its cable modems, irrespective of the manufacture of the cable modem or the model, to operate with the operating software intended for that cable modem (page 7 lines 4-7).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over DiNatale et al (WIPO Pub # WO 02/48897 A1) in view of Beser (US Patent #6,775,276).

Claim 9 discloses the initialization file of claim 8, wherein the configuration file version information is encoded together with the configuration file name in a boot file name region of a dynamic host configuration protocol (DHCP) message format.

Art Unit: 2141

DiNatale et al teaches of the limitations in claim 8 as recited above (page 7, lines 8-11, page 8, lines 26-31, page 9, line 1-2). It fails to teach of encoding the information in a boot file name region of a DHCP message format. Beser teaches of an offer message being sent to a cable modem with configuration information in the boot file name region of a DHCP message (column 12, lines 23-30).

DiNatale et al and Beser are analogous art because they are both related to cable modem configurations.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the message in Beser and adapt it to use with the file in DiNatale et al because the boot filename section of a DHCP message is used for sending the path and filename of a file for configuration purposes (column 13, line 24-28, table 4).

Claim 12, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiNatale et al (WIPO Pub # WO 02/48897 A1) in view of Gatherer et al (US Patent #6,549,584).

Claim 12 discloses the method of claim 11, wherein receiving configuration file name information comprises: parsing the first configuration file name information as received into a file name part and a file version part. DiNatale et al teaches all of the limitations of claim 11 as recited above (page 5, lines 29-31, page 6, lines 8-10, page 7, lines 14-17, 29-31, page 9, lines 16-25). It fails to teach of parsing the information as received into a name part and version part. Gatherer et al teaches of a parser function which processes the incoming bit stream into groups of bits of specific lengths which

Art Unit: 2141

separates the data providing a delimiter in between (column 8, lines 66-67, column 9, lines 1-8).

DiNatale et al and Gatherer et al are analogous art because they are both related to cable modem operating.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the parser function method taught by Gatherer et al with the method taught by DiNatale et al because Gatherer teaches that the function can reduce errors inherently speeding up the process (column 10, lines 52-56).

Claim 17 discloses a method for downloading an initialization file for a cable modem, comprising: constructing a configuration file with a file name part, a file version part and a delimiter part and registering the configuration file in a DHCP server; receiving the configuration file name information registered in the DHCP server; parsing the received configuration file name information into a file name part and a file version part; reading previously downloaded configuration file name information; comparing the received configuration file name and the previously downloaded configuration file name; downloading the received configuration file name information if the received configuration file name and the previously downloaded configuration file name are different, and comparing the received configuration file version to the previously downloaded configuration file version if the received configuration file name is identical to the previously downloaded configuration file name; and downloading the received configuration file name information if the received configuration file version is more recent than the previously downloaded configuration file version and reading the

Art Unit: 2141

previously downloaded configuration file name information if the received configuration file version is one of older than and the same as the previously downloaded configuration file version; and performing a registration process using one of the received configuration file name information and the previously downloaded configuration file name information according to the comparison result. DiNatale teaches most of the claim as recited above (page 5, lines 29-31, page 6, lines 26-32, page 7, lines 30-32, page 10, lines 9-13, 21-25). It fails to teach of parsing the information as received into a name part and version part. Gatherer et al teaches of a parser function which processes the incoming bit stream into groups of bits of specific lengths which separates the data providing a delimiter in between (column 8, lines 66-67, column 9, lines 1-8).

DiNatale et al and Gatherer et al are analogous art because they are both related to cable modem operating.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the parser function method taught by Gatherer et al with the method taught by DiNatale et al because Gatherer teaches that the function can reduce errors inherently speeding up the process (column 10, lines 52-56).

Claim 18 discloses the method of claim 17, wherein if the received configuration file name information is an initialization file that is first input to the cable modem, the first configuration file name information is stored in the memory and the registration process is performed using the received configuration file name information. DiNatale teaches most of the claim limitations of claim 17 as recited above (page 5, lines 29-31, page 6,

lines 26-32, page 7, lines 30-32, page 9, lines 9-13, 21-25). It also teaches of the limitations of claim 18 as recited above (page 9, lines 16-25). It fails to teach of parsing the information as received into a name part and version part. Gatherer et al teaches of a parser function which processes the incoming bit stream into groups of bits of specific lengths which separates the data providing a delimiter in between (column 8, lines 66-67, column 9, lines 1-8).

DiNatale et al and Gatherer et al are analogous art because they are both related to cable modem operating.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the method of DiNatale et al modified by Gatherer et al with the method taught by DiNatale et al because DiNatale et al teaches that the method can determine whether any changes have been made (page 9, lines 19-20).

Response to Arguments

Applicant's arguments filed April 28, 2005 have been fully considered but they are not persuasive.

In response to applicant's arguments, the recitation "an apparatus for downloading an initialization file" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand.

Art Unit: 2141

alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Applicant asserts in claim 1 Roeck et al does not disclose the element "a tuner unit for tuning a plurality of downstream signals and upstream signals". Examiner respectfully disagrees the tuner in Roeck is further described to be a standard tuner found in cable modems and other devices that manipulate radio frequencies which inherently tune up and downstream signals (column 11, lines 63-65).

Applicant asserts in claim 1 Roeck does not teach "a downstream unit for demodulating the downstream signal inputted from the tuner unit and separating a general data and an MAC management message". Examiner respectfully disagrees; the receiver chip can be programmed to demodulate data and does not "attempt" to but does separate data (column 8, lines 59-67, column 9, lines 1-10).

Applicant asserts in claim 1 Roeck does not disclose "a message processor for detecting configuration file name information and MAP information according to the MAC management message inputted from the downstream unit". Examiner respectfully disagrees; the receiver chip in conjunction with the central processing can process data from downstream. The information provided to the processor is used to detect configuration information in Roeck.

Applicant asserts in claim 1 Roeck does not disclose of "a non-volatile memory for storing the configuration file name information detected from the message processor". Examiner respectfully disagrees. The memory in Roeck is capable of

Art Unit: 2141

holding configuration information (column 6, lines 55-62) and it is widely known in the art that memory is capable of holding various types of data.

Applicant asserts in claim 1 Roeck does not disclose, "an upstream unit for generating/modulating the upstream signal according to the MAP information detected from the message processor". Examiner respectfully disagrees; the transmitter chip, which modulates and prepares the signal for transmission upstream, is capable of modulating the data in various ways (column 12, lines 45-47).

Applicant asserts in claim 8 DiNatale does not disclose "a delimiter part differentiating the configuration file name part and the configuration file version part". Examiner respectfully disagrees, figure 4 shows a visual representation of a delimiter and it is inherent to have a delimiter when separating data in a file.

Applicant asserts in claim 11 DiNatale does not disclose "registering configurations file name information in a DHCP server". Examiner respectfully disagrees; the DHCP server has the information already it is inherent that it was registered by itself or other device.

Applicant asserts in claim 11 DiNatale does not disclose, "comparing the received first configuration file name information with a previously stored second configuration file name information". Examiner respectfully disagrees; the operating software table in DiNatale is the same as the applicant's configuration file name information.

Applicant asserts in claim 11 DiNatale does not disclose "downloading the received first configuration file name information, if the received first configuration file

Art Unit: 2141

name/version is more updated file than the second configuration file name/version upon comparison". Examiner respectfully disagrees; the operating software table in DiNatale is the same as the applicant's configuration file name information.

Applicant asserts in claim 11 DiNatale does not disclose, "updating the memory with the downloaded first configuration file name information". Examiner respectfully disagrees; the operating software table in DiNatale is the same as the applicant's configuration file name information.

Applicant asserts in claim 13 DiNatale does not disclose, "comparing a file name of the received first configuration file name information and that of the stored second configuration file name information". Examiner respectfully disagrees; the comparison of operating software table file versions is the same since the operating software table in DiNatale is the same as the applicant's configuration file name information.

Applicant asserts in claim 13 DiNatale does not disclose, "downloading the first configuration file name information if the first configuration file name and the second configuration file name are different to each other, and comparing the first configuration file version information and the second configuration file version information if the first configuration file name is identical to the second configuration file name". Examiner respectfully disagrees; DiNatale shows that the file is compared with the stored files whether or not the files are identical (page 8, lines 13-15). The operating software table in DiNatale is the same as the applicant's configuration file name information. The file version information is included in the file name in DiNatale allowing a comparison of the

first configuration file version information and a second configurations file version information.

Applicant asserts in claim 14 DiNatale does not disclose, "performing a registration process of a cable modem by using the stored second configuration file name information, if the first configuration file version information is lower than or the same as the second configuration file version information." Examiner respectfully disagrees; the file version is compared since the file version information is included in the file name in DiNatale.

Applicant asserts in claim 15 DiNatale does not disclose "a delimiter differentiating the file name part and the file version information part". Examiner respectfully disagrees, figure 4 shows a visual representation of a delimiter and it is inherent to have a delimiter when separating data in a file.

Applicant asserts in claim 16 DiNatale does not disclose, "the second configuration file name information is downloaded in the previous process of initializing the cable modem". Examiner respectfully disagrees; the operating software table file information contains the same information as the applicants configuration file.

Applicant asserts in claims 2-7, 9, 12, 17 and 18 the examiner relied on impermissible hindsight.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was

within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant asserts in claims 5, 6 a delimiter part is not disclosed. Examiner respectfully disagrees; in Gatherer it is inherent when groups of bits in specific lengths are in a file a delimiter is used to separate the information.

Applicant asserts in claim 14 a delimiter part is not disclosed. Examiner respectfully disagrees; in DiNatale figure 4 shows a visual representation of a delimiter and it is inherent to have a delimiter when separating data in a file.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2141


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Gillis whose telephone number is 571-272-7952. The examiner can normally be reached on M-F 7:45-4:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brian Gillis
Examiner
Art Unit 2141

BJG



RUPAL DHARIA
SUPERVISORY PATENT EXAMINER